**THE HON'BLE SRI JUSTICE P.S. NARAYANA**

**W.P.No.16141 of 2006**

**Date: 03-08-2006**

Between :-

Vaddineni Masthanaiah .. Petitioner

And

The State Election Commissioner, Hyd
and others .. Respondents

**THE HON'BLE SRI JUSTICE P.S. NARAYANA**

**W.P.No.16141 of 2006**

**ORDER:-**

Heard both the counsel.

The writ petition is filed for a writ of mandamus declaring the proceedings of the Revenue Divisional Officer, Gudur in Rc.C.2282/2006 dated 22.7.2006 rejecting the nomination of the petitioner as illegal, arbitrary and consequently set aside the same with a further direction to permit the petitioner to contest elections to the post of Sarpanch of Cherukumudi Gram Panchayat, Manubolu Mandal, Nellore District and pass such other suitable order.

It is stated that the elections are scheduled to be held on 06.8.2006. Petitioner filed his nomination for the post of Sarpanch. The petitioner's nomination was rejected on the ground that he had three children. It is stated that the third child was born on 17.7.1995, i.e., after 30.5.1995. The nomination was rejected by the Revenue Divisional Officer vide proceedings No.2282/2006 dated 22.7.2007. Against the said order the present writ petition is filed.

The original certificate of birth also is placed before this Court and elaborate submissions were made that in view of the clear documentary evidence available, the orders passed cannot be sustained and hence, in the light of the peculiar facts and circumstances, the petitioner may be permitted to contest the elections, which may be subject to the result of the writ petition.

Prima facie the argument advanced by the learned counsel appears to be attracted, but however, in view of the fact that the

petitioner is having a remedy by way of election petition and also in view of the fact that these being statutory disqualifications concerned with the question of fact to be decided, the writ Court cannot be interfere at this stage.

In view of the same, liberty is given to the petitioner to approach the appropriate election tribunal, if the petitioner is so advised.

The writ petition is accordingly disposed of. No order as to costs.

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**03.8.2006.**

**mdaa**